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5 Attorneys for Creditor
6 DAVID ALONZO and all similarly situated

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8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION**
10

11 In re:
12 PG&E CORPORATION,
13 and
14 PACIFIC GAS AND ELECTRIC
15 COMPANY,
16 Debtors.

Bankruptcy Case: 3:19-bk-30088 DM
Chapter 11
(Lead Case)
(Jointly Administered)

DECLARATION OF
JOHN E. LATTIN IN SUPPORT OF
CLASS REPRESENTATIVE'S
MOTION TO EXTEND
APPLICATION OF FEDERAL
RULE OF CIVIL PROCEDURE 23
TO CLASS PROOFS OF CLAIM

[Motion to Extend Application of
Federal Rule of Civil Procedure 23 to
Class Proofs of Claim Filed
Concurrently Herewith]

DATE: November 19, 2019
TIME: 10:00 a.m.
DEPT: 17

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1 I, John E. Lattin, declare as follows:

2 1. I am an attorney at law duly licensed to practice before all courts in the
3 State of California, and I am counsel of record for Attorneys for Creditor
4 DAVID ALONZO and all similarly situated (“Alonzo”). I have personal knowledge
5 of the facts contained in this declaration, and if called upon to do so, I could and
6 would testify competently to them.

7 2. On June 18, 2019, Class Representative filed an action against Pacific
8 Gas and Electric Company (“PG&E”) in San Francisco County Superior Court,
9 alleging PG&E’s failure to pay final wages to employees on termination and
10 resignation of employment in violation of the California Labor Code.

11 3. On October 10, 2019, Class Representative, on behalf of himself and the
12 putative Class, filed Proofs of Claim against Debtors Pacific Gas and Electric
13 Corporation (Case No. 19-30088, See Claim Nos. 276-1) and Pacific Gas and
14 Electric Company (Case No. 19-30089, See Claim Nos. 74-1) (collectively, the
15 “Class Proofs of Claim”).

16 4. On October 10, 2019, Class Representative, on behalf of himself and the
17 putative Class, filed Proofs of Claim against Debtors Pacific Gas and Electric
18 Corporation (Case No. 19-30088) and Pacific Gas and Electric Company (Case No.
19 19-30089) (collectively, the “Class Proofs of Claim”). *See*, the true and correct copy
20 of the Proof of Claim against Pacific Gas and Electric Corporation, Claim No. 276-1,
21 attached hereto as Exhibit 1, and the Proof of Claim against Pacific Gas and Electric
22 Company, Claim No. 74-1, attached hereto as Exhibit 2.

23 5. The overwhelming majority of putative Class members likely have not
24 received notice of the applicable Bar Date. The instant Motion has been timely filed,
25 and thus, no undue delay, surprise, or disruption to the administration of the case
26 exists. Extending Rule 23 to the Class Proofs of Claim would promote efficiency and
27 serve the bankruptcy goals of bringing all claims forward, ensuring creditor
28 compensation, and promoting equality of distribution.

1 6. On June 18, 2019, Class Representative filed a Class Action Complaint
2 against Sears PG&E in the San Francisco County Superior Court (the “Superior
3 Court”), styled *Alonzo v. Pacific Gas and Electric Company*, San Francisco County
4 Superior Court, Case No. CGC-19-576805 (the “Class Action”), which is the
5 operative complaint in the Class Action. The Complaint asserts a claim against
6 PG&E for violation of California Labor Code Sections 201-203 and related waiting
7 time penalties. See a true and correct copy of the Class Action Complaint attached
8 hereto as Exhibit 3.

9 7. The Class Action Complaint alleges as follows:

- 10 • On or about June 30, 2016, PG&E hired Class Representative. Over
11 the years, Class Representative was promoted and ultimately became
12 a salaried supervisor. As a salaried supervisor, PG&E paid Class
13 Representative a base salary plus overtime. In addition, PG&E
14 provided Class Representative paid vacations pursuant to PG&E’s
15 paid vacation policy.
- 16 • On March 25, 2019, PG&E terminated Class Representative’s
17 employment. Class Representative’s termination of employment by
18 PG&E was involuntary. At the time of Class Representative’s
19 termination, PG&E paid him once per month. At the time of his
20 termination of employment, Class Representative had accrued 123
21 hours of vested vacation pay at the rate of \$72.05/hour in the total
22 amount of \$8,862.15.
- 23 • PG&E failed to pay Class Representative’s vested vacation time
24 immediately upon Class Representative’s date of termination (i.e.,
25 March 24, 2019). Rather, PG&E created a payroll check issued to
26 Class Representative in the gross amount of \$11, 023.65, which
27 included Class Representative’s vested vacation pay in the amount of
28 \$8,862.15. The “Check Date” is “3/29/2019”. However, PG&E

1 failed to deliver said payroll check to Class Representative until
2 April 4, 2019, which was the following pay period.

- 3 • As a result of PG&E's failure to pay all earned and vested vacation
4 pay upon Class Representative's involuntary termination of
5 employment, PG&E failed to pay all final wages owed to Class
6 Representative in a timely manner.
- 7 • The operative complaint alleges the existence of the following class:
8 "All of [PG&E's] former salaried employees in California who were
9 paid once per month and who had earned and vested vacation pay at
10 the time of their separation of employment and whose during the
11 three years immediately prior to the filing of the Complaint."
12 • Class Representative is informed and believes he and all other
13 members of the putative Class are the victims of PG&E's systemic
14 failure to the comply with the California Labor Code. Class
15 Representative is further informed and believes a standard and
16 reliable methodology exists that would enable him to measure
17 damages across the putative Class, using data and information in
18 PG&E's possession (such as former employee lists, salary data, and
19 final pay data).

20 8. On January 29, 2019, PG&E and its affiliate filed voluntary petitions for
21 relief under Chapter 11 of the Bankruptcy Code, as a result of which the Class
22 Action was automatically stayed pursuant to Section 362(a) of the Bankruptcy Code.

23 9. The Court set a General Bar Date of October 18, 2019 for the filing of
24 claims against the Debtors.

25 10. On October 10, 2019, Class Representative, on behalf of himself and the
26 putative Class, filed Proofs of Claim against PG&E and Pacific Gas and Electric
27 Corporation (collectively, the "Class Proofs of Claim").

28 11. The Class Representative contends the evidence adduced in the Class

1 Action points to a large estimate of potential members, numbering into the hundreds,
2 if not thousands. On its company profile, PG&E reports having 24,000 employees.
3 It would be impracticable and uneconomical to require hundreds, if not thousands, of
4 former, salaried employees to individually litigate their claims.

5 12. Class Representative alleges PG&E engaged in a systemic failure to pay
6 vested vacation pay with final wages and delayed paying vested vacation pay for
7 several days.

8 13. Class Representative's and the Class' claims arise out of the same
9 course of conduct (i.e., PG&E's failure to timely pay vested vacation pay with final
10 wages), are based on the same legal theories, and will require the same kinds of
11 evidence to prove.

12 14. Class counsel has litigated dozens of wage and hour class actions.

13 15. PG&E's course of conduct in failing to include vested vacation in final
14 wages, and therefore, failing to timely pay final wages are central issues that call for
15 proof common to all members of the putative Class, and have resulted in damages
16 which can be measured across the entire Class.

17 16. The individual members of the Classes are numerous and are located
18 across the state of California. As a practical matter, it is likely that most Class
19 members have not received actual notice of the General Bar Date.

20 17. The claims administration process is ongoing, and the Class Proofs of
21 Claim were filed on October 10, 2019, in advance of the General Bar Date.

22 18. The Class' claims are no surprise to PG&E, given that the Class
23 Representative filed the Class Action on June 18, 2019, and subsequently received
24 Notice of Deadline for Filing Proofs of Claim in Chapter 11 Cases on or about July
25 15, 2019.

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1 19. The filing of the Class Proofs of Claim will promote efficiency by
2 placing hundreds of individual claims before the court in a single class claim with
3 competent counsel representing the interests of the class.

4 I declare under penalty of perjury under the laws of the State of California that
5 the foregoing is true and correct and that this declaration was executed on October
6 21, 2019, at Irvine, California.

7 Dated: October 21, 2019

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10 John E. Lattin
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1 **CERTIFICATE OF SERVICE**

2 United States District Court for the Northern District of California
3 Case No. 3:19-bk-30089 (DM)

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5 **DECLARATION OF JOHN E. LATTIN IN SUPPORT OF CLASS**
6 **REPRESENTATIVE'S MOTION TO EXTEND APPLICATION OF FEDERAL**
7 **RULE OF CIVIL PROCEDURE 23 TO CLASS PROOFS OF CLAIM**

8 I hereby certify that I caused the foregoing to be served and filed with the
9 Clerk of the Court for the United States District Court for the Central District of
10 California using the court's CM/ECF system on October 21, 2019.

11 I further certify that all participants in the case are registered CMF/ECF users
12 and that service will be accomplished by the court's CM/ECF system.

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15 /s/ John E. Lattin

16 John E. Lattin
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